IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 6922 of 2006(Y)

PETITIONER:

C.SURESH KUMAR, S/O.LATE
E.K.VISWANATHAN NAMBIAR,KAMALAYAM, PO WEST PONNIAM
THALASSERY.

BY ADV. SRI.T.P.PANKAJAKSHAN

RESPONDENTS:
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1. BOARD OF DIRECTORS,
NORTH MALABAR GRAMIN BANK, HEAD OFFICE,
BANK ROAD,KANNUR.

2. THE NORTH MALABAR GRAMIN BANK,
HEAD OFFICE, BANK ROAD, KANNUR, REPRESENTED BY
ITS CHAIRMAN.

BY ADV. SRI.DEVAN RAMACHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF CHARGE SHEET DATED 12.5.1992 TO THE PETITIONER.

EXT.P2 TRUE COPY OF THE ORDER PASSED IN OP 8250 OF 1993 F DATED 14.10.93

EXT.P3 TRUE COPY OF THE ENQUIRY REPORT DATED 25.10.93

EXT.P4 TRUE COPY OF THE ORDER DATED 9.11.93 OF DISCIPLINARY AUTHORITY

EXT.P5 TRUE COPY OF THE ORDER PASSED BY THE APPELLATE AUTHORITY DATED 7.2.1994

EXT.P6 TRUE COPY OF THE ORIGINAL PETITION NO. 9043 OF 1994

EXT.P7 TRUE COPY OF JUDGMENT PASSED BY THE HONOURABLE COURT IN OP NO. 9043 OF 1994

EXT.P8 TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DATED 6.6.2003

EXT.P9 TRUE COPY OF THE APPLICATION SUBMITTED TO THE 2ND RESPONDENT DATED 17.10.2005

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 6922 OF 2006

Dated this the 14th day of March, 2007

JUDGMENT

Petitioner is challenging Ext.P8 order whereunder the second respondent-Bank has dismissed the appeal filed by the petitioner against his dismissal from service of Bank. I heard counsel appearing for the petitioner and standing counsel for the Bank. Petitioner has raised various allegations against enquiry by stating that enquiry officer does not know Malayalam but evidence was recorded in Malayalam. According to petitioner, Enquiry Officer was biased and his report was not based on evidence. Further contention of the petitioner is that charges levelled against the petitioner are not proved. Counsel also pointed out that none of the cheque dishonour cases stands proved and petitioner is acquitted of all such cases.

2. On going through the charge sheet and the findings entered by the Enquiry Officer I am convinced that petitioner's conduct was unbecoming of a Bank official's and his continuance in the service of the Bank was undesirable. He acted both as field supervisor as well as

cashier. The main allegation is that he borrowed funds from various customers in his personal capacity and failed to repay the same in time. Cheques issued by him towards repayment were dishonoured. There is also allegation that some amounts collected for deposit in loan account of various borrowers were not deposited by the petitioner. However, strangely the Bank has not filed any criminal complaint against the petitioner for misappropriation. I do not propose to go into each and every charge because the charges levelled and proved against the petitioner are sufficient misconduct to remove the petitioner from service. However, there is no charge of misappropriation proved against the petitioner. By the time petitioner was removed from service, he had 14 years of service. In view of the fairly long period of service rendered by the petitioner, and since petitioner is not proved to be involved in any misappropriation of funds belonging to the bank, though he appeared to have diverted funds of some indifferent customers, I feel the punishment of dismissal is disproportionate to the charges levelled and proved against him. In the circumstances, W.P. is disposed of reducing the punishment to one of removal from service

without disability to seek employment elsewhere. Consequently, gratuity and other benefits payable to the person removed from service will be paid to the petitioner after settling any other liability that may be due from him.

(C.N.RAMACHANDRAN NAIR)
Judge